HON'BLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTSICE G. BHAVANI PRASAD

W.P. NO.6240 of 2006

Between:

G. Srinivas Reddy and six others ... Petitioners

and

Government of Andhra Pradesh, rep. by its Principal Secretary, Health, Medical & Family Welfare Department, Hyderabad and eight others ... Respondents

:: ORDER ::

Counsel for the petitioners : Sri G.L. Narasimha Rao

Counsel for respondent Nos.1 and 4 : Government Pleader for Medical, Health & Family Welfare

Counsel for respondent No.3 : Government Pleader for Revenue

Counsel for respondent No.2 : Sri Y. Sudhakar

Counsel for respondent Nos.5 to 9 : None

3rd APRIL, 2006

Per G. Bhavani Prasad, J

G. Srinivas Reddy, son of Nagireddy, Vice President of Martooripeta Gram Panchayat, Madhira Mandal, Khammam District and six others have filed this petition in public interest for issue of a writ of mandamus directing the respondents to construct Primary Health Centre building in Martooripeta village as per Government Memo No.10922/F1/2004-3, dated 25-02-2005 expeditiously.

The construction of the building for the Primary Health Centre at Martooripeta village has become a contentious issue due to the dispute as to whether it should be constructed in Ac.1-20 guntas in survey Nos.730/1 and 730/2 donated by Sri Ravuri Bhaskar Rao and his brother or Ac.1-12 guntas in survey Nos.534/4 and 534/5 said to have been acquired by all the villagers.

The petitioners claim that Sri Ravuri Bhaskar Rao and his brother donated the land of Ac.1-20 guntas in survey Nos.730/1 and 730/2 without intimating to or taking prior permission of the Gram Panchayat with a view to develop their lands and are trying

to get a pucca building constructed for Primary Health Centre in that land, which has to serve Martooripeta and surrounding six villages of Madhira Mandal. According to them, the villagers strongly opposed the move of Sri Ravuri Bhaskar Rao and his brother because the land sought to be donated by them is far off from the village and it is very inconvenient to the people of the villages and, therefore, they obtained a suitable land in Survey Nos.534/4 and 534/5 by collecting funds from all corners and purchasing the land by the side of the main road, which is very convenient to all the surrounding villages. The villagers represented to the concerned authorities for change in the place of building of Primary Health Centre from Survey No.730/1 and 730/2 to Survey Nos.534/4 and 534/5. Upon this, a team headed by Superintending Engineer, Andhra Pradesh Health, Medical and Housing Infrastructure Development Corporation, Circle Karimnagar visited the site and submitted report that the land donated by Sri Ravuri Bhaskar Rao is not fit for construction of the building. Thereafter, the government issued Memo No.10922/F1/2004-3, HM & FW (F1) Department, dated 25-02-2005 requesting the Engineer-in-Chief, A.P. Health, Medical & Housing Infrastructure Development Corporation (respondent No.2) and asked him to take action for construction of the building of Primary Health Centre at Martooripeta village in Survey Nos.534/4 and 534/5. Earlier to this, Sri Ravuri Bhaskar Rao filed W.P. Nos.10183 of 2004 and 12514 of 2004, which were disposed of by a common order, dated 26-10-2004 directing the Director of Medical and Health to decide the matter by taking into account the suitability and convenience of the villagers and giving liberty to all

the parties to make their respective representations. Sri Bhaskar Rao again filed W.P. No.10574 of 2005 suppressing the facts and making false allegations. The Government sanctioned Rs.20,00,000/- for establishing Primary Health Centre in permanent building. At this stage, Sri Ravuri Bhaskar Rao and others filed suit in the Court of Junior Civil Judge, Madhira for issuance of a mandatory injunction to the defendants to construct the Primary Health Centre building in the name of their parents. They also filed I.A.No.143 of 2004 for grant of interim injunction. The same was dismissed, but, on appeal, Senior Civil Judge, Sathupalli set aside the said order and remanded the matter to the trial Court with the direction to dispose of the suit within three months.

The petitioners have averred that the private respondents are not cooperating in the expeditious disposal of the suit and delay in construction of the building of Primary Health Centre is bound to result in escalation of cost, which will place additional burden on the government and cause inconvenience and hardship to the people.

We have heard learned counsel for the parties and carefully perused the record.

The dispute about the location of the building for Primary Health Centre at Martooripeta village, Madhira Mandal, Khammam District was raised in W.P. Nos.10183 of 2004 and 12514 of 2004 filed by Sri Ravuri Bhaskar Rao and, in the common order dated 26-10-2004, the learned Single Judge directed the State Government to decide the matter taking into account the suitability and convenience of the villagers for establishment of Primary

Health Centre building at a convenient place, after providing sufficient opportunity to the parties concerned. The learned Single Judge also gave liberty to the parties to file documents in support of their claim in the matter of construction of the building for Primary Health Centre at the particular location. Simultaneously, the District Medical and Health Officer was restrained from proceeding with the construction at either of the sites till the Government takes decision and selects the site. Thereafter, District Collector, Khammam, Chief Executive Officer, Zilla Parished, Khammam, District Medical and Health Officer, Khammam and Superintending Engineer, Andhra Pradesh Health, Medical and Housing Infrastructure Development Corporation, Khammam appear to have inspected both the sites and opined that Survey Nos.534/4 and 534/5 were more suitable for construction of the building of Primary Health Centre. At that stage, respondent Nos. 5 to 9 filed suit in the Court of Junior Civil Judge, Madhira by alleging that the villagers did not donate the alternative site for two months. However, when construction was started by Andhra Pradesh Health, Medical and Housing Infrastructure Development Corporation and a sum of Rs.20 lakhs was released, the villagers intermeddled and tried to obstruct the construction of building. Thereupon, an application for temporary injunction was dismissed by the trial court, but, on appeal, Senior Civil Judge, Sattupalli remanded the matter with a direction for disposal of the suit.

In our opinion, when the civil suit in relation to the same subject matter filed by the private respondents is pending, there is no justification for entertaining the writ petition.

It is also seen from the averments in the first petitioner's

affidavit itself that W.P. No.10574 of 2005 filed by Sri Ravuri Bhaskar Rao challenging the Government Memo No.10922/F1/2004-3 dated 25-02-2005, which is sought to be enforced and implemented through this writ petition, is still pending adjudication in this Court. Therefore, the only remedy is to file appropriate application in that case and it is not at all appropriate for us to entertain this petition. Even if the petitioners are not party to the suit or Writ Petition No.10574 of 2005, they could file an application for impleadment and for expeditious hearing of the cases.

For the reasons mentioned above, the writ petition is dismissed.

As a sequel to the dismissal of the writ petition, WPMP No.7955 of 2006 is disposed of as infructuous.

G. BHAVANI PRASAD, J

Date: 03-4-2006

G.S.

SINGHVI, C.J.

Svv / svs